

VICTOR DE LANGE

IBLA 80-514

Decided June 16, 1980

Appeal from a decision of the Sacramento, California, State Office, Bureau of Land Management, declaring placer mining claims Belgica Nos. 98, 99, and 100 abandoned and void. CA MC 3363 through 3365.

Affirmed.

1. Federal Land Policy and Management Act of 1976:
Recordation of Affidavit of Assessment Work or Notice
of Intention to Hold Mining Claim -- Mining Claims:
Abandonment

Under 43 CFR 3833.2-1(a), the owner of an unpatented mining claim must file affidavits of assessment work or notices of intention to hold the mining claims on or before Dec. 30 of each calendar year following the year of recordation of the claim with BLM, or the claim will be conclusively deemed to have been abandoned under 43 CFR 3833.4(a).

APPEARANCES: Victor DeLange, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On March 18, 1980, the Sacramento State Office, Bureau of Land Management (BLM), issued a decision declaring placer mining claims Belgica Nos. 98, 99, and 100 abandoned and void. These mining claims had been located on June 10, 1974, and recorded with BLM pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(b) (1976), on May 27, 1977. BLM held that appellant had failed to file affidavits of assessment work performed,

or alternatively, notices of intention to hold these claims, on or before December 30, 1979, as required by 43 CFR 3833.2-1(a). A timely appeal was filed from this decision. We affirm.

[1] Section 314(b) of FLPMA, 43 U.S.C. § 1744(b) (1976), and the pertinent regulation, 43 CFR 3833.2-1(a), require that the owner of an unpatented mining claim located prior to October 21, 1976, shall, on or before December 30 of each year following the calendar year in which the claim was recorded with BLM, file with BLM evidence of annual assessment work performed during the previous assessment year, or alternatively, a notice of intention to hold the mining claim. Failure to file the required instrument is deemed conclusively to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a). The record shows that appellant, having recorded the claims with BLM in 1977, then wrote to BLM on October 2, 1978, advising that he had recorded affidavits of assessment work with the El Dorado County Recorder and inquiring whether he should also file copies with BLM. Under date of October 25, 1978, BLM responded in the affirmative, whereupon he did file the affidavits with BLM on November 15, 1978. This satisfied his obligation for 1978. Thus, assessment work affidavits or notices of intent to hold for the period September 1, 1978, through September 1, 1979, were due in the BLM office on or before December 30, 1979.

When appellant failed to file either affidavits or notices of intention for calendar year 1979, BLM properly held the claims to have been abandoned and declared them void. Juan Munoz, 39 IBLA 72 (1979); Public Service Co. of Oklahoma, 38 IBLA 193 (1978); John R. Carruthers, 38 IBLA 193 (1978); Donald H. Little, 37 IBLA 1 (1978); Donald L. Nordwick, 36 IBLA 2 (1978); Paul S. Coupey, 35 IBLA 112 (1978).

Appellant acknowledges that he failed to meet these requirements, as he was not familiar with them, noting that BLM had not written to him in 1979 concerning this requirement, although it had done so in 1978. Unfamiliarity with these statutory and regulatory requirements does not excuse failure to meet them. Nor does the fact that in the previous year BLM (in reply to his inquiry) wrote appellant indicating the need to file copies of his proof of labor, but did not do so in 1979. Juan Munoz, *supra*; John R. Carruthers, *supra*. All persons dealing with the Government are presumed to have knowledge of the relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Juan Munoz, *supra*. BLM cannot be expected to write to every mining claimant every year to remind them of their legal responsibilities.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Frederick Fishman
Administrative Judge

